IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2844 OF 2006

Gautam Chand Chopada, .. Applicant
Vs
1.The State of Maharashtra & anr Respondents

Mr S.K.Jain, for the applicant.
Mr P.A.Pol, APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 3rd August, 2006

P.C.:

1. Heard Mr.Jain, learned counsel for the applicant and Mr Pol, learned APP for the respondent.

2. Mr.Jain, learned counsel for the applicant, states that he has instructions to press prayer clause (d) only in the petition. Prayer (d) reads thus;

> "(d) The time to deposit first instalment be reasonably extended to enable the applicant to deposit the ordered first instalment in Court and also for subsequent instalments time be suitably and reasonably extended so that both the orders dated 13.7.2006 passed in Appeal No.25/2006 and 26/2006 could be complied with."

It appears that after filing of the appeal, the applicant filed an application-Exhibit-4 seeking suspension of the order of conviction and sentence. The learned 2nd Ad-hoc Addl.Sessions Judge disposed of

that application by order dated 13.7.2006. The operative part of that order reads thus:

> "1. Order of conviction and sentence passed in Summary Case No.173/2006 stands suspended on condition of appellant depositing 50% of each two cheques amount.
>
> 2. First cheque is of Rs.84,521 and 50% of the round figure of the said amount Rs.42,261/- is required to be deposited by the appellant.
>
> 3. Appellant shall deposit this amount in three instalments of Rs.14,000/- each in round figure.
>
> 4. First instalment shall be payable within ten days of passing of this order, i.e. 24.7.2006, second instalment shall be payable on 25.8.2006 and third instalment shall be payable on 26.9.2006.
>
> 5. On depositing said amount it shall be kept in F.D.R. till final decision of the appeal.
>
> 6. Besides above the appellant shall furnish P.R.Bond with solvent surety or a sum of Rs.25,000/- during pendency of appeal."

It appears that the applicant could not deposit the first instalment on 24.7.2006 and, therefore, he filed the application seeking extension of time to deposit the said instalment after the due date. That application came to be rejected by the impugned order dated 24.7.2006.

3. Mr Jain, learned counsel for the applicant, submits that the amount of the first instalment is

ready and the applicant is prepared to deposit that amount immediately. Insofar as other two instalments are concerned, he states that the applicant will deposit both the instalments on or before the dates mentioned in paragraph 4 of the aforesaid order. Considering the overall facts and circumstances of the case and the reasons for delay in depositing the first instalment, I am satisfied that the following order shall meet the ends of justice.

(a) The applicant to deposit the first instalment on or before 10.8.2006. The order dated 13.7.2006 and paragraph 4 thereof insofar as the first instalment is concerned, stands modified in the aforesaid terms. Rest of the order remains unaltered.

(b) It is open for the applicant to apply for cancellation of the non-bailable warrant on or before 10.8.2006 before the appropriate court. The applicant shall not be arrested till then, i.e. 10.8.2006.

(c) The application is disposed of.

(D.B.BHOSALE,J.)